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[Draft] Electricity Distribution Services Input Methodologies (Wash-up Amounts) Amendment Determination 2024

[2024] NZCC [XX]

The Commission:

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Date of decision:

[Day] [Month] 2024

[Signature]

[Name], Commissioner

Dated at Wellington this [Day] of [Month] 2024

COMMERCE COMMISSION

Wellington, New Zealand

Determination history		
Determination date	Decision number	Determination name
28 September 2012	[2012] NZCC 26	Electricity Distribution Services Input Methodologies Determination 2012 ('principal determination')*
15 November 2012	[2012] NZCC 34	Electricity and Gas Input Methodologies Determination Amendments (No. 2) 2012
26 September 2014	[2014] NZCC 24	Electricity Lines Services Input Methodologies Determination Amendment 2014
29 October 2014	[2014] NZCC 27	Electricity Lines Services and Gas Pipeline Services Input Methodologies Determination Amendment (WACC percentile for price-quality regulation) 2014
14 November 2014	n/a	Determination of Input Methodologies by the High Court in <i>Wellington International Airports Ltd and others v Commerce Commission</i> [2013] NZHC 3289 (11 December 2013)
27 November 2014	[2014] NZCC 31	Electricity Distribution Input Methodology Amendments Determination 2014
27 November 2014	[2014] NZCC 32	Incremental Rolling Incentive Scheme Input Methodology Amendments Determination 2014
11 December 2014	[2014] NZCC 38	Electricity Lines Services and Gas Pipeline Services Input Methodologies Determination Amendment (WACC percentile for information disclosure regulation) 2014
12 November 2015	[2015] NZCC 28	Electricity and Gas (Customised Paths) Input Methodology Amendments Determination 2015
25 November 2015	[2015] NZCC 32	Electricity Distribution Services (Incremental Rolling Incentive Scheme) Input Methodologies Amendments Determination 2015
20 December 2016	[2016] NZCC 24	Electricity Distribution Services Input Methodologies Amendments Determination 2016
21 December 2017	[2017] NZCC 30	Electricity Distribution Services Input Methodologies Amendments Determination 2017
8 November 2018	[2018] NZCC 19	Electricity Distribution Services Input Methodologies (Accelerated Depreciation) Amendments Determination 2018
13 November 2019	[2019] NZCC 18	Electricity Distribution Services Input Methodologies Amendments Determination 2019
26 November 2019	[2019] NZCC 20	Electricity Distribution Services Input Methodologies Amendments Determination (No. 2) 2019

30 March 2020	[2020] NZCC 2	Electricity Distribution Services Input Methodologies Amendments Determination 2020
13 December 2023	[2023] NZCC 35	Electricity Distribution Services Input Methodologies (IM Review 2023) Amendment Determination 2023
[Day] [Month] 2024	[2024] NZCC [XX]	Electricity Distribution Services Input Methodologies (Wash-up Amounts) Amendment Determination 2024

* The principal determination re-determined the input methodologies contained in *Commerce Act (Electricity Distribution Services Input Methodologies) Determination 2010* (Commerce Commission Decision No. 710, 22 December 2010), as amended by the *Electricity and Gas Input Methodologies Determination Amendments (No. 1) 2012* [2012] NZCC 18 (29 June 2012). A complete history of determinations relevant to the input methodologies applicable to electricity distribution services is available on the Commission's website.

[Drafting notes:

- This determination amends the Electricity Distribution Services Input Methodologies Determination 2012, as previously amended, ('principal determination').
- This determination is secondary legislation made under the Legislation Act 2019 and Part 4 of the Commerce Act 1986.]

Electricity Distribution Services Input Methodologies (Wash-Up Amounts) Amendment Determination 2024

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Under Part 4 of the Commerce Act 1986, the Commerce Commission makes the following determination:

1. TITLE

- 1.1 This determination is the Electricity Distribution Services Input Methodologies (Wash-up Amounts) Amendment Determination 2024.

2. DETERMINATION AMENDED

- 2.1 This determination amends the **principal determination**.

3. INTERPRETATION

- 3.1 In this determination:

3.1.1 **principal determination** means the Electricity Distribution Services Input Methodologies Determination 2012 [2012] NZCC 26; and

3.1.2 words or phrases in bold type (other than headings) have the same meanings as in the **principal determination**.

4. COMMENCEMENT AND APPLICATION

- 4.1 This determination comes into force on [date], being the day after which notice of it is given in the New Zealand Gazette under the Legislation Act 2019 in accordance with s 52W of the **Act**.

- 4.2 However, the amendments to the **principal determination** set out in clause 5—

4.2.1 apply for:

(a) a **DPP** that commences on or after 1 April 2025; or

(b) a **CPP application** made on or after the date specified in clause 4.1, and any **CPP** resulting from such an application; and

4.2.2 apply immediately after any amendments made to the **principal determination** by the Electricity Distribution Services Input Methodologies (IM Review 2023) Amendment Determination 2023 apply to the **principal determination**.

- 4.3 If the **Commission** determines that any forecast values must be calculated consistent with the amendments to the **principal determination** set out in clause 5 for the determination of a **DPP** or a **CPP** described in clause 4.2, the provisions of the **principal determination** as amended by clause 5 apply to the calculation of the forecast values.

5. PRINCIPAL DETERMINATION AMENDMENTS

- 5.1 The amendments to the body of the **principal determination** are the deletions, substitutions and additions to the clause 3.1.4 of the **principal determination** that are tracked in red in Attachment A.

Attachment A:

3.1.4 Wash-up amounts

- (1) The 'wash-up account balance' for a **disclosure year** (DY_n) is:
- (a) the **wash-up account balance** for the previous **disclosure year**; plus
 - (b) a time value of money adjustment, equal to the **wash-up account balance** for the previous **disclosure year** multiplied by the **mid-point estimate of WACC** cost of capital estimate specified in subclause (12) for DY_n ; plus
 - (c) the **wash-up accrual amount** for ~~the disclosure year~~ DY_n ; minus
 - (d) the **wash-up drawdown amount** for ~~the disclosure year~~ DY_n ; minus
 - (e) any **revenue foregone** amount for ~~the disclosure year~~ DY_n .
- (2) Despite subclause (1), in the case of Aurora Energy Limited,–
- (a) for the purposes of subclause (5), the 'wash-up account balance' for disclosure year 2025 is:
 - (i) the closing wash-up account balance for the fourth 'CPP assessment period' (as that term is defined in the Aurora CPP determination), calculated in accordance with paragraph (2) of Schedule 1.6 of the Aurora CPP determination, adjusted by replacing "(1 + 67th percentile estimate of post-tax WACC)" with (1 + the cost of capital estimate specified in subclause (12) for DY_n); plus
 - (ii) the wash-up amount for the fourth CPP assessment period, calculated in accordance with paragraph (1) of Schedule 1.5 of the Aurora CPP determination; and
 - ~~(a)(b)~~ in the case of Aurora Energy Limited, the 'wash-up account balance' for ~~the disclosure year~~ 2026 is:
 - (i) the closing wash-up account balance for the fifth 'CPP assessment period' (as that term is defined in the **Aurora CPP determination**), calculated in accordance with paragraph (2) of Schedule 1.6 of the **Aurora CPP determination**, adjusted by replacing "(1 + 67th percentile estimate of post-tax WACC)" with ~~the time value of money adjustment specified in the CPP determination or DPP determination that applies to Aurora Energy Limited from 1 April 2026~~ (1 + the cost of capital estimate specified in subclause (12) for DY_n); plus
 - (ii) the wash-up amount for the fifth CPP assessment period, calculated in accordance with paragraph (1) of Schedule 1.5 of the **Aurora CPP determination**; ~~and.~~

- (2A) Despite subclause (1), for every EDB other than Aurora Energy Limited,—
- (a) for the purposes of subclause (5), the ‘wash-up account balance’ for disclosure year 2024 is:
- (i) the closing wash-up account balance for the fourth ‘assessment period’ (as that term is defined in the DPP3 determination), calculated in accordance with paragraph (2) of Schedule 1.7 of the DPP3 determination, adjusted by replacing “(1 + 67th percentile estimate of post-tax WACC)²” with (1 + the cost of capital estimate specified in subclause (12) for DY_n); plus
- (ii) the wash-up amount for the fourth assessment period, calculated in accordance with paragraph (1) of Schedule 1.6 of the DPP3 determination; and
- (b) ~~for every other EDB,~~ the ‘wash-up account balance’ for ~~the~~ disclosure year 2025 is:
- (i) the closing wash-up account balance for the fifth ‘assessment period’ (as that term is defined in the DPP3 determination), calculated in accordance with paragraph (2) of Schedule 1.7 of the DPP3 determination, adjusted by replacing “(1 + 67th percentile estimate of post-tax WACC)²” with ~~the time value of money adjustment specified in the CPP determination or DPP determination that applies to the EDB from 1 April 2025~~ (1 + the cost of capital estimate specified in subclause (12) for DY_n); plus
- (ii) the wash-up amount for the fifth assessment period, calculated in accordance with paragraph (1) of Schedule 1.6 of the DPP3 determination.
- (3) For the purposes of subclause (1), the ‘wash-up accrual amount’ for a disclosure year is an amount equal to:
- (a) actual allowable revenue for the disclosure year; minus
- (b) actual revenue for the disclosure year.
- (4) For the purposes of subclause (3), and subject to subclause (10), ‘actual allowable revenue’ for a disclosure year means an amount calculated on the same basis as the forecast allowable revenue for the disclosure year, adjusted (as specified by the Commission in a DPP determination or CPP determination) by substituting:
- (a) actual pass-through costs for forecast pass-through costs;
- (b) actual recoverable costs for forecast recoverable costs;
- (c) in respect of the first disclosure year of the regulatory period:

- (i) the amount determined in accordance with the formula—

$$\text{forecast net allowable revenue for the disclosure year} / (1 + \text{forecast CPI change}) \times (1 + \text{actual CPI change})$$
 Where—
 ‘forecast CPI change’ means the derived change in the **forecast CPI** for the **disclosure year**, calculated in accordance with a **DPP determination** or **CPP determination**; and
 ‘actual CPI change’ means the derived change in the **CPI** for the **disclosure year**, calculated in accordance with a **DPP determination** or **CPP determination**; for
- (ii) **forecast net allowable revenue** for the **disclosure year**;
- (d) in respect of each **disclosure year** of the **regulatory period** after the first **disclosure year**, **actual CPI** for **forecast CPI** used for the purposes of determining **forecast net allowable revenue** for that **disclosure year**;
- (e) where an **EDB** is subject to a:
 - (i) **DPP determination**, the sum of the actual **value of commissioned assets** in the **disclosure year** prior to the start of the **DPP regulatory period** for the **forecast aggregate value of commissioned assets** in the **disclosure year** prior to the start of the **DPP regulatory period** as specified in the **DPP determination**; or
 - (ii) **CPP determination**, the sum of the actual **value of commissioned assets** in the **disclosure year** prior to the start of the **CPP regulatory period** for the sum of the **forecast value of commissioned assets** in the **disclosure year** prior to the start of the **CPP regulatory period** as specified in the **CPP determination**;
- (f) in respect of any asset referenced in paragraph (e) with a **commissioning date** in the preceding **DPP regulatory period** or **CPP regulatory period**, the weighted average **remaining asset life** calculated under Part 2 in respect of each **disclosure year** of the **regulatory period** for the forecast **remaining asset life** for that asset;
- (g) if the acquisition of a transmission asset by the **EDB** is not completed prior to the commencement of the **regulatory period** in accordance with the terms of any contract setting out the terms and conditions of sale:
 - (i) a nil value for the forecast **capital expenditure** value associated with the transmission asset as specified in a **DPP determination** or **CPP determination**; and
 - (ii) a nil value for any forecast **operating expenditure** associated with the transmission asset as specified in a **DPP determination** or **CPP determination**;

- (h) where a **new connection wash-up mechanism** has been specified in a **CPP determination**, the actual quantity of **new connections** for the forecast quantity of **new connections** that was specified in the **CPP determination**; and
 - (i) actual revenue under **large connection contracts** for revenue forecast to be received under **large connection contracts**.
- (5) For the purposes of clause 3.1.3(1)(n) and subclause (1), ‘wash-up drawdown amount’ for a **disclosure year** means an amount:
- (a) that equals one of, or is between, the following amounts:
 - (i) zero; and
 - (ii) the **wash-up account balance** for the **disclosure year** two years prior $\times (1 + \text{the cost of capital estimate specified in subclause (12) for the disclosure year one year prior}) \times (1 + \text{the cost of capital estimate specified in subclause (12) for } DY_n)$ minus the **wash-up drawdown amount** for the **disclosure year** one year prior $\times (1 + \text{the cost of capital estimate specified in subclause (12) for } DY_n)$ (whether that ~~balance amount~~ is negative or positive); and
 - (b) that is the sum of:
 - (i) an amount to be drawn down by the **EDB** in the **disclosure year**, as determined by the **Commission** for the purpose of returning the **wash-up account balance** towards zero over time and specified in a **DPP determination** or **CPP determination**; and
 - (ii) any additional amount to be drawn down by the **EDB** in the **disclosure year**, as nominated by the **EDB** and specified in its response to a notice under s 53N of the **Act**.
- (6) For the purposes of subclause (1), ‘revenue foregone’ for a **disclosure year** means:
- (a) **voluntary revenue foregone** for the **disclosure year**; plus
 - (b) **compulsory revenue foregone** for the **disclosure year**.
- (7) For the purposes of subclause (6), ‘voluntary revenue foregone’ for a **disclosure year** means:
- (a) the **undercharging limit** minus **forecast revenue from prices** for the **disclosure year**, where **forecast revenue from prices** is less than the **undercharging limit**; or
 - (b) nil, where **forecast revenue from prices** for the **disclosure year** is greater than or equal to the **undercharging limit**.
- (8) For the purposes of subclause (6), ‘compulsory revenue foregone’ for a **disclosure year** means a positive amount returned to **consumers** through a reduction in **forecast**

revenue from prices and **actual revenue**, for example, as agreed between the **Commission** and an **EDB** in response to a breach of a price-quality requirement or an information disclosure requirement.

- (9) For the purposes of subclauses (3) and (8), ‘actual revenue’ means, for a **disclosure year**, the revenue amount calculated in accordance with a **DPP determination** or **CPP determination** that includes actual revenue from **prices** and **other regulated income**.
- (10) If, for a **disclosure year**, the allowable revenue (as described in subclause (11)) for a **large connection contract** exceeds the actual revenue received under the contract, **the wash-up accrual amount** for the **disclosure year** must be reduced by the difference between the allowable revenue and the actual revenue received under the contract.
- (11) In subclause (10), the allowable revenue, in respect of a **large connection contract**, is an amount calculated on the same basis as in the **forecast allowable revenue** calculation for the **disclosure year**, adjusted (as specified by the **Commission** in a **DPP determination** or **CPP determination**) by substituting revenue receivable under the contract for revenue forecast to be received under the contract.
- (12) For the purposes of making a time value of money adjustment for the purposes of this clause, the cost of capital estimate is:
- (a) for **disclosure years** prior to **disclosure year 2026**, 4.23%;
 - (b) for a **disclosure year** that is the first **disclosure year** of a **DPP regulatory period** (including where the **EDB** is subject to a **CPP**), a weighted average of the applicable cost of capital estimate for the previous **DPP regulatory period** (with a 0.41 weighting) and the current **DPP regulatory period** (with a 0.59 weighting); or
 - (c) for any other **disclosure year**, the **midpoint estimate of WACC** for the current **DPP regulatory period**.